

**ENGINEERING AND LAND SURVEYING  
EXAMINING BOARD[193C]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 8, “Professional Conduct of Licensees,” Iowa Administrative Code.

The proposed amendment to Chapter 8 clarifies the rules on unethical or illegal conduct. Stakeholder feedback was gained via meetings of a task force comprised of five members of the engineering profession, two members of the Iowa Engineering and Land Surveying Examining Board, the assistant attorney general, and lobbyist David Scott whose clients include the Iowa Engineering Society and Society of Land Surveyors of Iowa. The task force agreed to the amendment as proposed herein. Additional stakeholder feedback was solicited from the following seven groups: Iowa League of Cities, Iowa Association of Counties, American Council of Engineering Companies of Iowa, Iowa Engineering Society, The Society of Land Surveyors of Iowa, Master Builders of Iowa, and Associated General Contractors of Iowa. Two favorable responses were received. No unfavorable responses were received.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before May 22, 2014. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to [robert.lampe@iowa.gov](mailto:robert.lampe@iowa.gov).

A public hearing will be held at 9 a.m. on May 22, 2014, at the offices of the Professional Licensing Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

The proposed amendment is subject to waiver or variance pursuant to 193—Chapter 5.

The proposed amendment was approved by the Board on March 13, 2014.

There is no fiscal impact. No current fees are being changed and no new fees are being imposed.

After analysis and review of this rule making, no adverse impact on jobs has been found. Although there should be no impact on jobs, the Board will continue to work with stakeholders to minimize any negative impact and maximize any positive impact toward jobs.

This amendment is intended to implement Iowa Code section 542B.21.

The following amendment is proposed.

Amend paragraph **8.2(6)“a”** as follows:

*a. Business practices.* The following guidelines regarding unethical or illegal business practices shall apply:

(1) to (3) No change.

(4) Licensees shall not solicit or accept an engineering or land surveying contract from a governmental body when a principal or officer of the licensee’s organization serves as an elected, appointed, voting or nonvoting member of the same governmental body which is letting the contract. For purposes of this subparagraph, “governmental body” means a board, council, commission, or similar multimembered body. A licensee would not violate this provision, however, if the principal or officer of the licensee’s organization who serves as a member of the governmental body plays no role

in the solicitation or acceptance of the contract, and the contract would be legally permissible under applicable Iowa law, including but not limited to Iowa Code sections 68B.3, 279.7A, 331.342, and 362.5.

(5) and (6) No change.

~~(7) When a licensee's organization or a principal, officer, other member, or employee of the licensee's organization has review authority over the engineering or land surveying projects performed by private contractors within the jurisdiction of a governmental body, the licensee shall not solicit or accept a private engineering or land surveying contract that falls under the review services performed for that governmental body. The purpose of this paragraph is to avoid a circumstance in which a licensee may be called upon to review on behalf of a governmental body the engineering or land surveying services performed by the licensee's own organization.~~

~~However, if the licensee exercising review authority does so as a member of a multimembered body with review authority, the conflict of interest may be addressed by the disqualification or recusal of the licensee when engineering or land surveying services of the licensee's organization are under review. In that circumstance, the solicitation or acceptance of a private engineering or land surveying contract by the licensee's organization would not be in violation of this rule.~~